



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

Bonnie Breazeale, Treasurer
Martin Frost Campaign Committee
P. O. Box 4219
Dallas, TX 75208

MAR 13 2006

RE: MUR 5547
Martin Frost Campaign Committee and
Bonnie Breazeale, in her official capacity
as treasurer

Dear Ms. Breazeale:

On October 5, 2004, the Federal Election Commission notified Martin Frost Campaign Committee ("Committee") and you, in your official capacity as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information provided by the Committee, the Commission, on March 7, 2006 found that there is reason to believe the Committee and you, as treasurer, violated 2 U.S.C. § 441d(c)(2), a provision of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred

27044135559

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you have any questions, please contact Delbert K. Rigsby, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,



Michael E. Toner
Chairman

Enclosures
Designation of Counsel Form
Factual and Legal Analysis

cc: candidate

27044153537

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

Respondents: Martin Frost Campaign Committee and
Bonnie Breazeale in her official capacity
as treasurer

MUR: 5547

I. INTRODUCTION

The complaint in this matter alleged that Martin Frost Campaign Committee and Bonnie Breazeale, in her official capacity as treasurer (the "Committee"), violated the disclaimer provisions of the Act in three commercial mailings. For the reasons set forth below, the Commission finds reason to believe that the Committee violated 2 U.S.C. § 441d(c)(2).

II. FACTUAL AND LEGAL ANALYSIS

A. Factual Background

The complaint alleged that the Committee, Martin Frost's authorized political committee for his election race in Texas' 32nd Congressional district, distributed three commercial mailings in which the disclaimers were "small, hard to read and [] not in a printed box." The Committee did not respond to the complaint.

One of the mailings has a picture of an airplane on the front page. Printed at the bottom of that page is text reading, "What could be more important than keeping America safe?" On the front page of a second mailing is a picture of a box stamped "U.S. Jobs Malaysia," the statement at the bottom of the first page is, "If Pete Sessions [Frost's opponent] has his way, America's biggest export will be our jobs." The third mailing has a picture of Pete Sessions on the front page with the words "Product of Malaysia" stamped on his forehead, accompanied by text reading, "Do you really think Pete Sessions was working for you?" Each of the mailings

2704415333

contained a properly worded disclaimer (“Paid for by the Martin Frost Campaign Committee”) on the front page in the return address position.

All three of these communications appear to have been printed public communications financed by a political committee, and thus subject to the disclaimer requirements in 2 U.S.C. § 441(d)(c) and 11 C.F.R. § 110.11(c). The Commission’s regulations define “public communication” as, among other things, a “mass mailing,” which means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period. 11 C.F.R. §§ 100.26 and 100.27. From all appearances, each of these three differently worded communications, which respectively contain photographs and appear to have been professionally printed, were themselves “substantially similar” mailings, in that each appears to have been mailed in bulk, postage pre-paid, with each communication presumably mailed at approximately the same time as all the others of the same communication, identical but for the recipient’s name and address. *See* 11 C.F.R. § 100.27. The complaint indicates that the mailings were distributed to 100,000 individuals.

On each of the three mailings, the disclaimer was printed with a reasonable degree of color contrast between the disclaimer and its background. *See* 2 U.S.C. § 441d(a) and (c)(2) and 11 C.F.R. § 110.11(b)(1) and (c)(2)(i) and (iii). Although the complaint alleged that the “disclaimer[s] [were] small and hard to read,” they appear to be “clearly readable by the recipient.” *See* 2 U.S.C. § 441d(c)(1) and 11 C.F.R. § 110(c)(2)(i); *see also* Explanation and Justification, 67 Fed. Reg. 76962,76965 (2002). None of the disclaimers, however, were contained in “a printed box set apart from the other contents of the communication.” *See* 2 U.S.C. § 441d(c)(2) and 11 C.F.R. § 110.11(c)(2)(ii).

Therefore, there is reason to believe that Martin Frost Campaign Committee and Bonnie Breazeale, in her official capacity as treasurer, violated 2 U.S.C. § 441d(c)(2) by disbursing funds for three mailings containing disclaimers that were not placed in a printed box set apart from the other contents of the communication.

27044153560